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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,984	06/19/2005	Albertus J. N. Van Breemen	NL021474	6378

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EXAMINER	
DENNISON, JERRY B	
ART UNIT	PAPER NUMBER
2443	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/539,984	VAN BREEMEN, ALBERTUS J. N.	
	Examiner	Art Unit	
	J Bret Dennison	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 June 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *16 and 18-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *16 and 18-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

RESPONSE TO AMENDMENT

1. This Action is in response to the Amendment for Application Number 10/539,984 received on 6/10/2009.

2. Claims 16 and 18-20 are presented for examination.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/10/2009 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkes et al. (US 20020194601) in view of Harada (JP 2004191701) and further in view of Ruebenstrunk and Bartneck ("Integrating the OCC Model of Emotions in Embodied Characters")

4. Regarding claim 16, the Perkes reference disclosed a computer readable medium storing a computer program for causing a processing device to perform network downloading of music files (Perkes, [0227]), said computer program comprising:

computer readable code for causing said processing device to obtain at least one music preference (see paragraph 0043 wherein personalized consumer preferences are collected in a profiling function based on downloadable/streaming music);

computer readable code causing said processing device to access at least one network based music file, the music file including at least one music attribute (see paragraphs 0047 and 0049, wherein an Exchange agent is used to determine a collection of web-based selected content that can be a musical file containing metadata such as the artist name like N'Sync or genre of the musical file);

computer readable code for causing said processing device to compare the music attribute to the music preference (see bottom of paragraph 0047-0049, wherein the consumer's music preferences is used as a predictive model matched to the selected content); and

computer readable code for causing said processing device to download the music file based on the comparison (see paragraph 0049, wherein the invention downloads the selected content determined from the comparison to the consumer's preference).

Perkes did not explicitly state storing computer readable code for causing said processing device to search for and download additional music attributes of the music file being downloaded.

In an analogous art, Harada disclosed a music data distribution system that includes a music information database that allows for the searching of music information using a search term such as the title, to provide unknown music data about the song (Harada, see Abstract).

One of ordinary skill in the art would have been motivated to combine the teachings of Perkes and Harada since both relate to the obtaining of music information for the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the searching for and downloading of unknown music information about a song in order to provide the end user with all available information of the song, thereby enabling the user to expand his/her knowledge of not only the song at hand, but also the user's likes and dislikes to thereby provide a much more efficient way for the user to continue searching for music of interest in relation to songs that have already been determined of interest.

Perkes and Harada did not explicitly state storing computer readable code for causing said processing device to display a progression of network downloading of music files as a function of an interface character capable of exhibiting emotion.

Ruebenstrunk disclosed emotional computers are used to convey humanlike feelings. Also, a computationally tractable model of emotions as a consequence of

certain cognitions, events and interpretations was developed by Ortony, Clore and Collins and aimed to be implemented in a computer or some type of Artificial Intelligence (AI) system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the model as described by Ruebenstrunk to display the occurrence of any existing cognitions, events, and interpretations of a computer, since this OCC model was intended for this purpose.

MPEP 2144.07 states the following:

"The selection of a known material based on its suitability for its intended use supported a prima facie obviousness determination in Sinclair & Carroll Co. v. Interchemical Corp., 325 U.S. 327, 65 USPQ 297 (1945) (Claims to a printing ink comprising a solvent having the vapor pressure characteristics of butyl carbitol so that the ink would not dry at room temperature but would dry quickly upon heating were held invalid over a reference teaching a printing ink made with a different solvent that was nonvolatile at room temperature but highly volatile when heated in view of an article which taught the desired boiling point and vapor pressure characteristics of a solvent for printing inks and a catalog teaching the boiling point and vapor pressure characteristics of butyl carbitol. "Reading a list and selecting a known compound to meet known requirements is no more ingenious than selecting the last piece to put in the last opening in a jig-saw puzzle." 325 U.S. at 335, 65 USPQ at 301.)."

An analysis of this section of MPEP shows that the replacement of one item with another based on its suitability for its intended use supports a prima facie obviousness determination. In regards to instant application, since Ruebenstrunk's model was a well known graphical interface as well as, it would have been obvious to choose between these well known interfaces to use in order to display download progression.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the emotional interface as disclosed by

Ruebenstrunk into the teachings of Perkes and Harada to yield the predictable result of allowing the programmers to display the download progression in the form of a model that display emotion, thereby enabling the programmers to create a download model according to their desires.

It would have also been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the emotional interface as disclosed by Ruebenstrunk into the teachings of Perkes and Harada since the model of Ruebenstrunk clearly prompts variations of itself for use in the field of endeavor based on design incentives, which is computers displaying emotion according to cognitions, events, and interpretations of the computer.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined the teachings of Perkes and Harada and the Ruebenstrunk reference to communicate humanlike emotions through a computer system as a reaction to positive and negative events regarding downloading music. Because there are numerous aspects going into the status of music gathering, an emotional interface easily provides a way of conveying the status or progression through humanlike emotions because such communication would not require reading and thus be able to communicate with young children or those speaking other languages, and by not having to be read can communicate faster than by a textual message.

In another analogous art, Bartneck disclosed the integration of the OCC model of Emotions into Embodied Characters in which Bartneck explicitly disclosed, "If the

character managed to download a complete album of music it still did not save the world from global warming. Hence, it should only show an appropriate level of happiness" (p4, left column). As such Bartneck disclosed using the OCC model to display a status and internal state of the network downloading of music files.

One of ordinary skill in the art would have been motivated to combine the teachings of Perkes, Harada, and Ruebenstrunk with Bartneck since the teachings of Bartneck explicitly disclosed combining of downloading music files with displaying a character face of emotion based on the downloading.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Bartneck within the combined teachings of Perkes, Harada, and Ruebenstrunk in order to provide developers with the ability to map a character's emotional state according to events performed by the computer such as the downloading of music files, thereby allowing for the easy understanding of the state of such downloading (Bartneck, p4, left column), thereby making it easier for the end user to determine the status of the download in an easy fashion.

With regard to claim 18, Perkes, Harada, Ruebenstrunk and Bartneck disclosed the limitations as described in claim 16, including wherein said computer program further comprises computer readable code for causing the processing device to download a second music file based on the first music file, as a function of a complete album feature (see middle of paragraph 0045 and 0049, wherein the music content

items can include the listed album and based on predictive models using the consumer's preferences, content types of the album might be of interest to the consumer and downloaded).

With regard to claim 19, Perkes, Harada, Ruebenstrunk and Bartneck disclosed the limitations as described in claim 16, including wherein said computer program further comprises computer readable code for causing the processing device to provide interaction with the network downloading of music files as a function of a graphical user interface (see paragraph 0041 and figures 1 and 2, wherein a user interface is provided for new users to enter in information as the basis of a profile and existing users can access an exchange agent to view selected content).

With regard to claim 20, Perkes, Harada, Ruebenstrunk and Bartneck disclosed the limitations as described in claim 16, including wherein said computer program further comprises computer readable code for causing the processing device to provide interaction with the network downloading of music files as a function of a voice command (see paragraph 0208, wherein a user interface can be initiated by a mouse click or by a voice command).

5. Claims 16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perkes et al. (US 20020194601) in view of Piepho et al. (US 20030179867) and

further in view of Ruebenstrunk and Bartneck ("Integrating the OCC Model of Emotions in Embodied Characters").

6. Regarding claim 16, the Perkes reference disclosed a computer readable medium storing a computer program for causing a processing device to perform network downloading of music files (Perkes, [0227]), said computer program comprising:

computer readable code for causing said processing device to obtain at least one music preference (see paragraph 0043 wherein personalized consumer preferences are collected in a profiling function based on downloadable/streaming music);

computer readable code causing said processing device to access at least one network based music file, the music file including at least one music attribute (see paragraphs 0047 and 0049, wherein an Exchange agent is used to determine a collection of web-based selected content that can be a musical file containing metadata such as the artist name like N'Sync or genre of the musical file);

computer readable code for causing said processing device to compare the music attribute to the music preference (see bottom of paragraph 0047-0049, wherein the consumer's music preferences is used as a predictive model matched to the selected content); and

computer readable code for causing said processing device to download the music file based on the comparison (see paragraph 0049, wherein the invention

downloads the selected content determined from the comparison to the consumer's preference).

Perkes did not explicitly state storing computer readable code for causing said processing device to search for and download additional music attributes of the music file being downloaded.

In an analogous art, Piepho disclosed a music data distribution enables downloading from the Internet both music and data relating to music contemporaneously (Piepho , [0013]).

One of ordinary skill in the art would have been motivated to combine the teachings of Perkes and Piepho since both relate to the obtaining of music information for the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the searching for and downloading of all available music information about a song in order to provide the end user with such information, thereby enabling the user to expand his/her knowledge of not only the song at hand, but also the user's likes and dislikes to thereby provide a much more efficient way for the user to continue searching for music of interest in relation to songs that have already been determined of interest.

Perkes and Piepho did not explicitly state storing computer readable code for causing said processing device to display a progression of network downloading of music files as a function of an interface character capable of exhibiting emotion.

Ruebenstrunk disclosed emotional computers are used to convey humanlike feelings. Also, a computationally tractable model of emotions as a consequence of certain cognitions, events and interpretations was developed by Ortony, Clore and Collins and aimed to be implemented in a computer or some type of Artificial Intelligence (AI) system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the model as described by Ruebenstrunk to display the occurrence of any existing cognitions, events, and interpretations of a computer, since this OCC model was intended for this purpose.

MPEP 2144.07 states the following:

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An analysis of this section of MPEP shows that the replacement of one item with another based on its suitability for its intended use supports a prima facie obviousness determination. In regards to instant application, since Ruebenstrunk's model was a well known graphical interface as well as, it would have been obvious to choose between these well known interfaces to use in order to display download progression.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the emotional interface as disclosed by Ruebenstrunk into the teachings of Perkes and Piepho to yield the predictable result of allowing the programmers to display the download progression in the form of a model that displays emotion, thereby enabling the programmers to create a download screen according to their desires.

It would have also been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the emotional interface as disclosed by Ruebenstrunk into the teachings of Perkes and Piepho since the model of Ruebenstrunk clearly prompts variations of itself for use in the field of endeavor based on design incentives, which is computers displaying emotion according to cognitions, events, and interpretations of the computer.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have combined the teachings of Perkes and Piepho and the Ruebenstrunk reference to communicate humanlike emotions through a computer system as a reaction to positive and negative events regarding downloading music. Because there are numerous aspects going into the status of music gathering, an emotional interface easily provides a way of conveying the status or progression through humanlike emotions because such communication would not require reading and thus be able to communicate with young children or those speaking other languages, and by not having to be read can communicate faster than by a textual message.

In another analogous art, Bartneck disclosed the integration of the OCC model of Emotions into Embodied Characters in which Bartneck explicitly disclosed, "If the character managed to download a complete album of music it still did not save the world from global warming. Hence, it should only show an appropriate level of happiness" (p4, left column). As such Bartneck disclosed using the OCC model to display a status and internal state of the network downloading of music files.

One of ordinary skill in the art would have been motivated to combine the teachings of Perkes, Harada, and Ruebenstrunk with Bartneck since the teachings of Bartneck explicitly disclosed combining of downloading music files with displaying a character face of emotion based on the downloading.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Bartneck within the combined teachings of Perkes, Harada, and Ruebenstrunk in order to provide developers with the ability to map a character's emotional state according to events performed by the computer such as the downloading of music files, thereby allowing for the easy understanding of the state of such downloading (Bartneck, p4, left column), thereby making it easier for the end user to determine the status of the download in an easy fashion.

With regard to claim 18, Perkes, Piepho, Ruebenstrunk and Bartneck disclosed the limitations as described in claim 16, including wherein said computer program further comprises computer readable code for causing the processing device to

download a second music file based on the first music file, as a function of a complete album feature (see middle of paragraph 0045 and 0049, wherein the music content items can include the listed album and based on predictive models using the consumer's preferences, content types of the album might be of interest to the consumer and downloaded).

With regard to claim 19, Perkes, Piepho, Ruebenstrunk and Bartneck disclosed the limitations as described in claim 16, including wherein said computer program further comprises computer readable code for causing the processing device to provide interaction with the network downloading of music files as a function of a graphical user interface (see paragraph 0041 and figures 1 and 2, wherein a user interface is provided for new users to enter in information as the basis of a profile and existing users can access an exchange agent to view selected content).

With regard to claim 20, Perkes, Piepho, Ruebenstrunk and Bartneck disclosed the limitations as described in claim 16, including wherein said computer program further comprises computer readable code for causing the processing device to provide interaction with the network downloading of music files as a function of a voice command (see paragraph 0208, wherein a user interface can be initiated by a mouse click or by a voice command).

Response to Amendment

Applicant's arguments are deemed moot in view of the following new grounds of rejection as explained here below, necessitated by Applicant's substantial amendment (i.e., *by incorporating new limitations into the independent claims, which will require further search and consideration*) to the claims which significantly affected the scope thereof.

It is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterates the need for the Applicant to more clearly and distinctly define the claimed invention.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part

of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J Bret Dennison/
Primary Examiner, Art Unit 2443